

THE MANILA ELECTRIC COMPANY, PETITIONER, VS. THE PUBLIC SERVICE COMMISSION, RESPONDENT.

G. R. No. 42317. September 21, 1934

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is a petition for certiorari filed by the Manila Electric Company against the Public Service Commission, praying, for the reasons alleged therein, that judgment be rendered declaring null and void said commission's order contained in its letter to the petitioner, dated July 24, 1934, whereby it directed said petitioner to desist from enforcing the following measure or regulation:

"A customer who does not have any outstanding sufficient deposit with the company to guarantee his account for electric service and who is disconnected for non-payment of bills, shall not be reconnected unless the bills in arrears are paid and a deposit to guarantee future accounts is made. The deposit shall be equal to the amount of the approximate consumption for two months. It shall bear interest at the rate of 6 per cent a year, and shall be refunded at the end of one (1) year, if the customer has promptly paid all electric bills rendered during that period."

The Public Service Commission's letter containing the order in question reads as follows:

"With reference to your notice of your intention to enforce, effective August 1, 1934, the following rule:

" 'A customer who does not have any outstanding sufficient deposit with the company to guarantee his account for electric service and who is disconnected for non-payment of bills, shall not be reconnected unless the bills in arrears are paid and a deposit to guarantee future accounts is made. The deposit shall be equal to the amount of the approximate consumption for two months. It shall bear interest at the rate of 6 per cent a year, and shall be refunded at the end of one (1) year, if the customer has promptly paid all electric bills rendered during that period.'

"I beg to invite your attention to the following provision of section 16 (c) of Act 3108:

"No public service as herein defined shall adopt, maintain, or enforce any regulation, practice, or measurement which shall be unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory, or otherwise in violation of law. * * * "

"You are therefore hereby directed not to adopt, maintain, or enforce any regulation, practice, or measurement without having secured from this commission authority to do so. The burden of proof shall be upon you to show that such regulation, practice, or measurement is not unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory, or otherwise in violation of law.

"The amount of P15 should be remitted to this commission together with your application for such authority."

The first question to be decided in this appeal is whether or not there is a presumption that the measures or rules adopted by public service companies are unjust, unreasonable and arbitrary.

Subsection (c) of section 16 of Act No. 3108, otherwise known as the Public Service Law, on which the order in question is based, reads as follows:

"SEC. 16. No public utility as herein defined shall:

* * * * *

"(c) Adopt, maintain, or enforce any regulation, practice, or measurement which shall be unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory, or otherwise in violation of law, nor shall any public utility as herein defined provide or maintain any service that is unsafe, improper, or inadequate, or withhold or refuse any service which can reasonably be demanded and furnished when ordered by said Commission."

Nothing in the above legal provision or in any other provision of the same Act establishes or discloses the presumption that the measures or regulations adopted by public service companies are unjust, unreasonable and arbitrary.

Section 334, No. 31, of the Code of Civil Procedure establishes the disputable presumption that "the law has been obeyed". If compliance with the law is presumed, it should be presumed that the petitioner Manila Electric Company has complied with the prohibition contained in section 16, subsection (c), of Act No. 3108, not to adopt any unjust unreasonable and arbitrary measure or regulation, and that the measure or regulation which was adopted by it and of which it gave notice to the Public Service Commission, is just and reasonable. Inasmuch as this presumption exists in favor of the petitioner, the burden of proof rests with the person claiming that said measure or regulation is unjust, unreasonable or arbitrary, to show that his allegation is true.

Therefore, in requiring the petitioner Manila Electric Company to show that the measure or regulation which it attempts to enforce is just and reasonable, the Public Service Commission violates one of the rules of procedural law.

The second question to be decided is whether or not the Public Service Commission is authorized to require the petitioner Manila Electric Company to submit the measure or regulation under consideration to it for approval before enforcing the same, and to pay the corresponding registration fees.

Section 13 of Act No. 3108 places the general supervision and regulation of all public utilities in the hands of the Public Service Commission, and section 24, subsection (h), of the same Act authorizes it to investigate any complaint that a certain measure or regulation is unjust or unreasonable and to charge the expenses for such investigation to the public utility at fault, but nothing in said Act requires a public utility to submit to the Public Service Commission for approval any measure or regulation of the nature and character of the one under consideration, before enforcing it. In all cases where the Legislature has required the previous approval of the Public Service Commission for the validity of any act of a public utility affecting its certificate of public convenience, it has so expressly stated, as it has done in subsection (h) of section 16 of Act No. 3108, relative to the sale, transfer, mortgage and lease of the property, franchises and privilege of public utilities. It is a rule of statutory construction that what is not expressly or impliedly prohibited by law may be done, except when the act is contrary to morals, customs and public order. Inasmuch as the law does not require that a measure or regulation, such as the one under consideration, be submitted to the Public Service Commission prior to its enforcement, neither is the public service company desiring to adopt it obliged to do so, nor is the Public Service Commission authorized to require that it be done. There is no doubt but that inasmuch as the Public Service Commission has authority and jurisdiction to supervise and regulate all public utilities, public service companies are bound to give notice to said commission of whatever measure or regulation affecting the public which they may desire to adopt, and said commission is authorized to demand it in order to be able to comply with its duty of general supervision and regulation.

In view of the foregoing considerations, this court is of the opinion and so holds: (1) That public service companies holding certificates of public convenience are not required to prove that the measures or regulations adopted by them, for the validity of which the law requires no approval by the Public Service Commission, are just and reasonable, unless they are objected to as unjust and unreasonable; and (2) that neither are public service companies obliged, nor is the Public Service Commission authorized to require them, to submit for approval any measure or regulation for the validity of which the law requires no such approval.

Wherefore, the Public Service Commission's order contained in its letter dated July 24, 1934, is declared null and void and without effect, without special pronouncement as to costs. So ordered.

Malcolm, Imperial, Butte, and Goddard, JJ., concur.

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